



March 21, 2000

Ms. Meri Schneider Vogel  
Bracewell & Patterson L.L.P.  
700 Louisiana Street, Suite 2900  
Houston, Texas 77002-2781

2000-1107

Dear Ms. Vogel:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 134157.

The Pearland Independent School District (the "PISD"), which you represent, received a communication which you construe as a Public Information Act request for "shop drawings" associated with the award of a specified contract. You have supplied the information responsive to this request to this office for review. You assert that the release of the submitted information implicates the interests of a third party, Sturdisteel. You contend, without supporting argument, that Government Code sections 552.101, 552.104 and 552.110 may protect the interests of this third party by excepting the submitted information from disclosure. *See* Gov't Code §552.305(b)(interested party may submit written reasons why information should be withheld or released).

On February 14, 2000, you provided Sturdisteel with the notice required by Government Code section 552.305(d). This notice informed Sturdisteel of the current request for information and that it is entitled to submit written comments to this office, stating why the requested information should be withheld. The notice informed Sturdisteel that such comments must be submitted "not later than the tenth business day after the date you receive this notice." Representatives of Sturdisteel timely provided comment to this office, asserting that the requested drawings are excepted from public disclosure by section 552.110 of the Government Code.

In pertinent part section 552.110 of the Government Code provides

(b) Commercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained is excepted from the [disclosure] requirements of Section 552.021.

In this case, representatives of Sturdisteel assert that the responsive drawings were provided to PISD as required by the procedure utilized by PISD in awarding the grandstand/bleacher portion of “the Stadium Project.” These representatives further inform us that the subject contract for this work is being rebid; that the requestor and Sturdisteel are competitors for this business; and that knowledge of the drawings would allow its competitor to “determine Sturdisteel’s design and project cost to defeat Sturdisteel in the rebid.” You have also represented to this office that the subject contract is being rebid. Based on your representation and the argument of the third party, we conclude that release of the requested information at this time would cause substantial competitive harm to Sturdisteel. *See Taco Cabana v. Two Pesos*, 932 F.2d 113 (5<sup>th</sup> Cir. 1991). Therefore, the submitted information may be withheld under section 552.110(b) of the Government Code.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

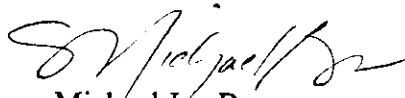
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov’t Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body’s intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general’s Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Jay Burns", written in a cursive style.

Michael Jay Burns  
Assistant Attorney General  
Open Records Division

MJB/nc

Ref: ID# 134157

Encl Submitted documents

cc: Mr. Jerald Epps  
Locke Liddell & Sapp  
100 Congress Avenue, Suite 300  
Austin, Texas 78701-4042  
(w/o enclosures)